



**DISADVANTAGED/SMALL BUSINESS ENTERPRISE PROGRAM
49 CFR PART 26**

UPDATED AND SUBMITTED TO:

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
12300 West Dakota Avenue, Suite 310
Lakewood, CO 80228**

August 2, 2013

POLICY STATEMENT

OBJECTIVES/POLICY STATEMENT

The City of Colorado Springs has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Colorado Springs has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Colorado Springs has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Colorado Springs to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT - assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT -assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Senior Grants Analyst has been delegated as the DBE Liaison Officer for the Transit Services Division at the City of Colorado Springs. In that capacity, the Senior Grants Analyst is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Colorado Springs in its financial assistance agreements with the Department of Transportation.

The City of Colorado Springs has previously disseminated this policy statement to the City Council and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. Distribution of the policy statement will be accomplished through publication on our website.

Craig Blewitt
Transit Services Division Manager

Date

SUBPART A – GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

The City of Colorado Springs is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

The City of Colorado Springs is the recipient of federal-aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21, Pub. L. 105-178, 112 Stat. 107.

The City of Colorado Springs is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The City of Colorado Springs will adopt the definitions contained in Section 26.5 for this program.

Section 26.7 Non-discrimination Requirements

The City of Colorado Springs will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Colorado Springs will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

We will report DBE participation to DOT as follows:

The City of Colorado Springs, Transit Services Division - We will report DBE participation on a semi-annually basis, using DOT Form 4630. These reports will reflect payments actually made to DBEs on DOT -assisted contracts.

Bidders List: 26.11 (c)

The City of Colorado Springs, Transit Services Division will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information by including a "Solicitation Statistics" form in the RFP and bid documents that gather the following information:

- Firm Name
- Firm Address
- DBE Status
- Company's Type of Work
- Month/Year Firm started
- Annual Gross Receipts of the Firm
- Name of Solicitation
- Solicitation Number

Section 26.13 Federal Financial Assistance Agreement

The City of Colorado Springs has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a)

The City of Colorado Springs shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Colorado Springs of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the City of Colorado Springs has received a grant of \$250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Brittany Goode, Senior Grants Analyst, 1015 Transit Drive, Colorado Springs, CO 80903 Phone: 719-385-7471.

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Colorado Springs complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the City of Colorado Springs, Transit Services Division Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress).
6. Analyzes the City of Colorado Springs' progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Acts as liaison to the Uniform Certification Process in Colorado.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the City of Colorado Springs to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

We will consult with other DBE programs to see if any exist within the state of Colorado. Only two such banks, to date, have been found in Colorado - the Native American Bank, NA and the Premier Bank. The Native American Bank is a federally-chartered bank that is owned by Native American Bancorporation, a bank holding company that has been organized by a group of Tribal Nations and Alaska Native Corporations. The Premier Bank is a state-chartered bank that is owned by Asian Americans

The City will encourage to the extent possible that prime contractors use such institutions.

Section 26.29 Prompt Payment Mechanisms

The City of Colorado Springs will include the following clause in each DOT-assisted prime contract:

"The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of each payment made the prime contract receives from the City. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Colorado Springs. This clause applies to both DBE and non-DBE subcontracts. The prime contractor may not hold retainage from its subcontractors."

Failure of the prime contractor to comply with the above clause may be construed to be a breach of contract and subject to contract termination. The Contracting Division will take steps to resolve any prompt payment violations as expeditiously as possible.

Section 26.31 Directory

The City of Colorado Springs accesses a combined statewide UCP directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The State revises the Directory daily as required. We make the Directory available as follows: Through promotion of the websites where the directories are located - Colorado Department of Transportation and the City/County of Denver. The UCP Directory may be found online at www.coloradodbe.org and <http://www.denvergov.org>.

The City also uses the Small Business Associations' directory which is set up in a way that directs contractors to potential DBE firms and promotes small businesses doing business with other small businesses. There may be businesses in this directory that are not certified as DBEs but who provide resources to small businesses. For example, there may be a small business that sets up accounts with credit card companies for small businesses. That particular business would not be in a North American Industry Classification System (NAICS) that the City would request procurement for. However, that small business would be of use to another small business.

Section 26.33 Overconcentration

The City of Colorado Springs has not identified that overconcentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The City of Colorado Springs has a business development program. The rationale for the program is small businesses are provided the opportunity to meet with Transit. Businesses are given information on "How to do Business with the City of Colorado Springs, Transit Services Division". All classes or events hosted by the City of Colorado Springs are publicized through the local newspapers, minority publications and also on our website.

Section 26.37 Monitoring and Enforcement Mechanisms

The City of Colorado Springs will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 3 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by site inspections by the project manager and requiring a certification that the designated DBE belongs to a certified DBE program.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Small Business Participation

The City of Colorado Springs has incorporated, as of March 1, 2012, the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-

assisted public works projects by small business concerns (both DBEs and non-DBE small businesses):

The SBE Program areas are Purchasing Transactions of \$15,000 or less; Professional Services Contracts of \$50,000 or less; and Construction Contracts of \$25,000 or less. The objective is to have at least fifty percent (50%) or more of the total eligible dollar base amounts be awarded to SBEs.

For the City of Colorado Springs' Small Business Enterprise Program, a SBE is:

- A qualified Small Business Enterprise, as defined by the United States Small Business Administration (SBA):
 - Is not dominant in its field of operations
 - Qualifies as a small business concern under Title 13, Code of Federal Regulations, part 121 (13 CFR 121)
 - 500 employees for most manufacturing and mining industries, and
 - \$7 million in average annual receipts for most non-manufacturing industries
- a. In order to facilitate competition by small business concerns, the City of Colorado Springs, Transit Services Division, Mountain Metropolitan Transit, will:
 - i. Require prime contractors to consider participation by firms certified as Small Business Enterprises and/or Emerging Small Business when developing its team and articulating its approach for the projects in accordance with 49 CFR Part 26.
 - 1. Regional Transportation District in Denver, CO certifies SBEs and maintains a SBE Directory inclusive of the five county radiuses. The eligible firms are classified by personal net worth (PNW) and average gross receipts.
 - ii. Require bidders on large contracts to identify and/or provide specific subcontracts appropriate for small business participation

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The City of Colorado Springs does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment C to this program. This section of the program will be updated on a triennial basis.

In accordance with Section 26.45(f) the City of Colorado Springs will submit its triennial overall goal to the FTA on August 1st every three years beginning 2011. Before establishing the overall goal each year, the City of Colorado Springs will consult, at a minimum, with the DBE directory published by CDOT, Census Bureau Data, local Chambers of Commerce, Community Organizations, General Contractors, and City Departments who receive federal funds to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Colorado Springs efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that the City of Colorado Springs and CDOT will accept comments on the goals for 45 days from the date of the notice. The notice will be issued through different types of media, including but not limited to, local newspapers, available minority-focus media, and websites. Normally, we will issue this notice by June 1 on a triennial basis. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year, unless we have received other instructions from FTA. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

The City of Colorado Springs will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

Section 26.51

Meeting Overall Goals/Contract Goals

The City of Colorado Springs will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, the City of Colorado Springs will:

- 1.) Participate in Local Business Opportunity Workshops held in Colorado Springs. Other agencies that normally participate are El Paso County and Colorado Springs Utilities. The workshop will offer information from each of the 3 agencies on “how to do business with” and the types of opportunities available for contractors and vendors. DBE/SBE information will also be available for distribution.
- 2.) Participate in the annual Reverse Vendor Trade Show (RVTS) sponsored by the Rocky Mountain Governmental Purchasing Association which is normally held at the Denver Police Protective Association Event Center in Denver, Colorado. Over 500 individuals representing over 350 companies are anticipated to be in attendance at the show annually. DBE/SBE information regarding certification and programs will be available for interested firms. This location continues to allow for a larger outreach to businesses located throughout the State of Colorado. The City of Colorado Springs will continue their involvement in this annual event.
- 3.) The City Contracting Division participates in every pre-bid meeting on projects where federal funds are utilized and the DBELO participates in every pre-bid meeting where DBE goals for the project are set. A detailed explanation is given to all attendees on the utilization of CDOT’s DBE directory and the City/County of Denver’s SBE Directory and what constitutes a good faith effort. This on-going participation is anticipated to increase the prime contractors’ and consultants’ awareness of the DBE/SBE program and requirements. The DBE/SBE directories will now be utilized by the prime contractors in their goal attainment efforts for our projects.
- 4.) Planning and participating in DBE/SBE training seminars and workshops.
 - a. Create DBE/SBE presentations to do speaking engagements among the DBE/SBE communities on How to Do Business with the City and post it to the City’s website, www.springsgov.com and minority publications.
 - b. Conduct Open House Meetings to encourage local general contractors, small business and potential DBE firms to learn about upcoming procurement opportunities on MMT’s Capital Projects List
 - c. The DBE Liaison Officer will conduct a technical assistance workshop with contractors working on MMT federally assisted projects to

discuss various topics including the small business plan and other contracting opportunities

- d. The DBE Liaison Officer will partner with agencies including but not limited to the Colorado Springs Small Business Development Center, RMGPA and Regional Business Alliance seeking presentation opportunities and/or outreach efforts to the DBE/SBE community
 - e. The DBE Liaison Officer will meet with the Purchasing Office to review federally assisted upcoming procurements, in advance, to target participation either through the DBE program or for the small business plan
 - f. The DBE Liaison Officer will work with the Procurement Office to include contract goals to meet any portion of the overall goal the DBE Liaison Officer does not project being able to meet using race neutral means, on federally assisted contracts that have subcontracting opportunities
- 5.) Update the City's website to ensure ease of use and user friendly ways to learn How to Do Business with the City and include more DBE/SBE information.
- 6.) Ensure the links from the Colorado Department of Transportation DBE/SBE site to the City of Colorado Springs' DBE/SBE is correct and provides value add information.

The City of Colorado Springs will use contract goals to meet any portion of the overall goal City of Colorado Springs does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those FTA-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of total amounts of a FTA-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, the City of Colorado Springs will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted: 26.53(b)

The City of Colorado Springs treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;

2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration: 26.53(d)

Within 10 days of being informed by City of Colorado Springs that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: the City of Colorado Springs, Transit Services Division Manager. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is Terminated/Replaced on a contract: 26.53(f)

The City of Colorado Springs requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the City of Colorado Springs' prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to the City of Colorado Springs its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the City of Colorado Springs prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the City of Colorado Springs of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, the City of Colorado Springs will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontract, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the City's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Colorado Springs to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of ___ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of the DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART D – CERTIFICATION

Section 26.61 - 26.73 Certification Process

The City of Colorado Springs does not conduct a certification process. We will refer all interested businesses to the Colorado Department of Transportation Civil Rights & Business Resource Center or the City/County of Denver's Division of Small Business Opportunity – the two entities in the State of Colorado who will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will concur with their certification decisions based on the facts as a whole.

For more information about the certification process or to apply for certification, firms should contact:

Division of Small Business Opportunity (DSBO)
Office of Economic Development
201 West Colfax Avenue, Dept. 907
Denver, CO 80202
Phone: 720-913-1803
Email: DSBO@denvergov.org

Greg Diehl, Manager
CDOT Civil Rights & Business Resource Center
4201 E. Arkansas Avenue
Denver, CO 80222
Phone: 303-757-9234
Email: eo@dot.state.co.us

Certification application forms and documentation requirements are found online at <https://denver.mwdbe.com/vendorstart.asp> or <http://www.coloradodot.info/business/equal-opportunity/dbe/certification.html> to this program.

Section 26.81 Unified Certification Program

The City of Colorado Springs, as a DOT recipient, is a member of the Unified Certification Program (UCP) administered within the State of Colorado. The UCP will meet all of the requirements of this section. The City of Colorado Springs will use and count for DBE credit only those DBE firms certified by the Colorado UCP. The following is a brief description of the UCP: In accordance with the requirements of 49 CFR part 26.81, DOT recipients in Colorado adopted a Unified Certification Program. The original UCP Plan was approved in 2002 and revised in 2012. A UCP Executive Committee was established to oversee the COUCP. Colorado's DOT recipients agreed that the UCP will take the form of Interagency Recognition - a form of reciprocity. In Colorado, the two agencies authorized to certify DBEs are the CDOT Office of Certification and the City/County of Denver's Division of Small Business Opportunity (DSBO). New applicants are added to the directory as they are certified by CDOT and DSBO. The directory is updated nightly to ensure on-time information is displayed. The City of Colorado will direct all inquiries to the UCP that is established.

Section 26.83 Procedures for Certification Decisions**Re-certifications 26.83(a) & (c)**

The City of Colorado will rely on the recertification procedures outlined in 49 CFR Part 26.83 (a) and (c) for the removal of DBE's eligibility as described in the CDOT Program Manual available in <http://www.dol.state.co.us> which will review the eligibility of DBEs that were certified under former part 23, to make sure that they will meet the standards of Subpart E of Part 26. These reviews will be completed no later than three years from the most recent certification date of each firm.

"No Change" Affidavits and Notices of Change: 26.83(j)

The City of Colorado Springs will rely on the No Change Affidavits and Notice of Change procedures outlined in 49 CFR Part 26.830 for notification of any change in circumstances as described and in accordance with the COOT Program Manual.

Section 26.85 Denials of Initial Requests for Certification

The City of Colorado Springs will rely on the Denial of Initial Request for Certification procedures outline in 49 CFR Part 26.85 for denial of initial request as described in the CDOT Program Manual.

Section 26.87 Removal of a DBE's Eligibility

The City of Colorado Springs will rely on the Removal of DBE's Eligibility procedures as outlined in 49 CFR Part 26.87 for removal of DBE's eligibility in accordance with the CDOT Program Manual available in http://www.dol.stal.co.us/EEO/CDOT_DBEProgram_Manual.pdf.

Section 26.89 Certification Appeals

Any firm or complainant may appeal a decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, any local law.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for seven (7) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Colorado Springs or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENTS

Attachment 1: Organizational Chart

Attachment 2: DBE Directory

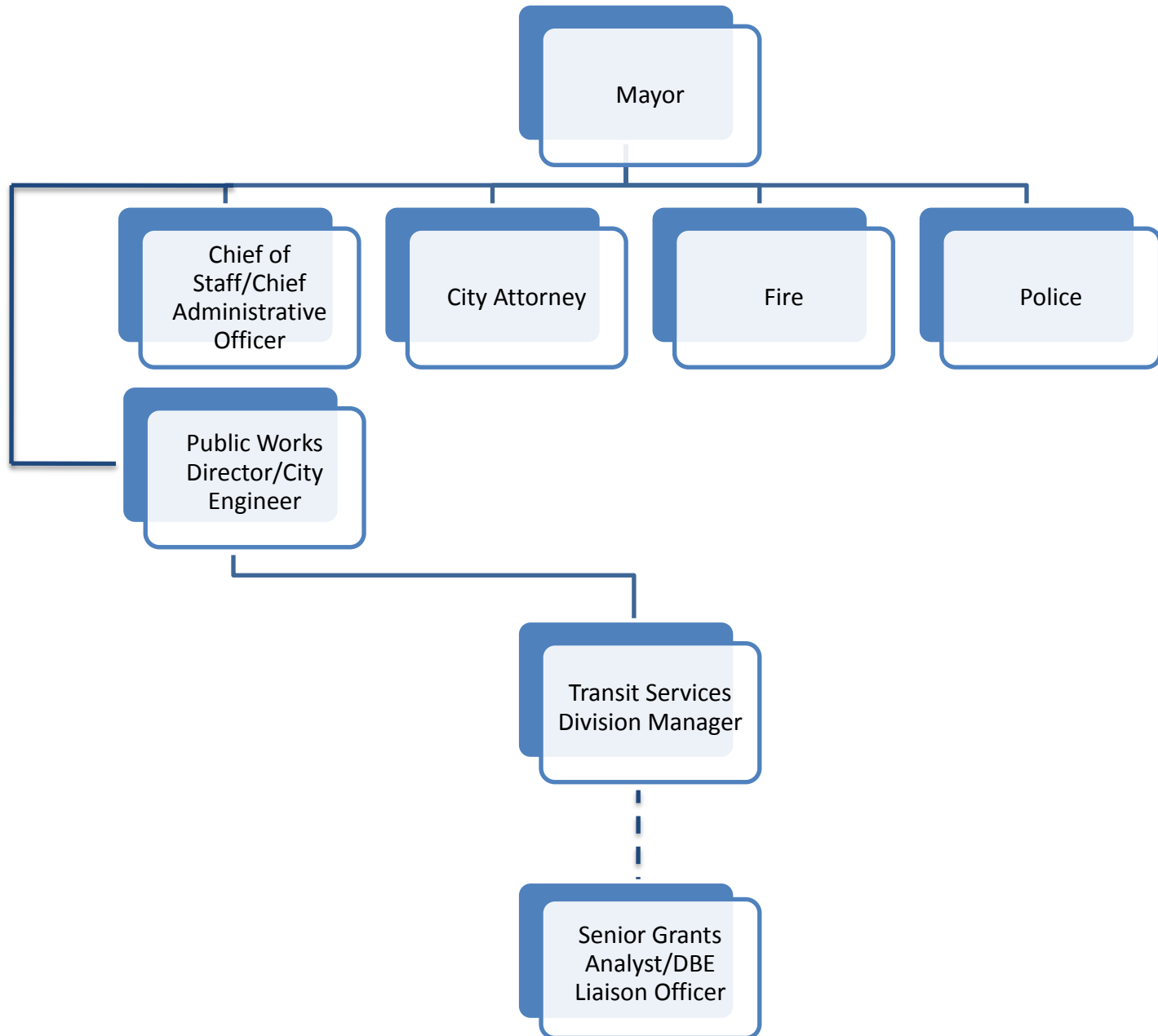
Attachment 3: Monitoring and Enforcement Mechanisms/Legal Remedies

Attachment 4: Goal Setting Methodology

Attachment 5: Good Faith Efforts Forms

Attachment 6: Certification Forms

Attachment 7: DBE Regulations: 49 CFR Part 26 Electronic Code of Federal Regulation

ATTACHMENT 1**Organizational Chart**

ATTACHMENT 2

DBE Directory

Unified Certification Program List of DBE firms

Contact: Office of Certification
 4201 East Arkansas Avenue
 Denver, CO 80222
 Phone: 303-512-4140

DBE Directory may be viewed at website:

<http://www.dot.state.co.us>

<http://www.denvergov.org>

ATTACHMENT 3

Monitoring and Enforcement Mechanisms/Legal Remedies

The City of Colorado Springs has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to Colorado Revised Statutes, Title 4;

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001

ATTACHMENT 4

Section 26.45: Overall Goal Calculation

Amount of Goal

1. The City of Colorado Springs, Transit Services Division's overall goal for 2012 – 2014, is the following: 6% of the Federal financial assistance will be expended in DOT-assisted contract, exclusive of FTA funds to be used for the purchase of transit vehicles.

Methodology used to Calculate Overall Goal

Step 1: 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing and able}} = \frac{223}{6,886} = 3.24\%$$

The data source or demonstrable evidence used to derive the numerator was: the Unified Certification Program list which includes: City/County of Denver, CDOT, and RTD.

The data source or demonstrable evidence used to determine the denominator was: Census Bureau's 2009 County Business Patterns.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was 3.24%.

Step 2: 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by 3%.

The data used to determine the adjustment to the base figure was: historical data for the City of Colorado Springs, Transit Services Division.

The reason we chose to adjust our figure using this data was because: past participation indicates a higher percentage is attainable.

From this data, we have adjusted our base figure to: 6%.

Public Participation

We published our goal information in these publications: Colorado Springs Gazette
www.springsgov.com

We received comments from these individuals or organizations: No comments were received.

Summaries of these comments are as follows: N/A

Our responses to these comments are: N/A

Section 26.51: Breakout of Estimated Race-Neutral & Race Conscious Participation

The City of Colorado Springs will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The City of Colorado Springs uses the following race-neutral means to increase DBE participation:

- Continue to make RFPs and IFBs attractive to DBEs
- Advertise these projects in the local newspaper
- Advertise these projects in the minority publications
- Advertise and promote the CDOT DBE directory to prime contractors at pre-bid meetings.
- Compile a bidders list based on current procurements.
- Attend minority Chamber of Commerce meetings to network with new vendors and promote doing business with the City.
- Conduct workshops and provide vendors with one-on-one meetings for direct marketing of products and services.
- Attend workshops to network with other DBE program administrators.

We estimate that, in meeting our overall goal of 6%, we will obtain 6% from race-neutral participation.

The following is a summary of the basis of our estimated breakout of race-neutral and race conscious DBE participation: Historical data indicates that our overall goal for FY 2010 was 8%. 5% was race-conscious and 3% race neutral. We attained 3.71% DBE participation for our overall FY 2010 goal. However, the first reporting period was substantially lower than the second. We would like to set our race neutral percentage at 6% due to fluctuation of our attainments.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

We will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

ATTACHMENT 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

Enclosure 1A - DBE AFFIDAVIT

THIS PAGE MUST BE COMPLETED BY ALL PRIME PROPOSERS/BIDDERS TO ACCEPT THE ESTABLISHED GOAL AND TO INDICATE THE PERCENTAGE OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION.

The undersigned bidder/proposer hereby agrees that the goal established for DBE participation in this project through subcontracting, obtaining materials from materials suppliers, or entering into a joint venture with Disadvantaged Business Enterprise(s) in conformity with the Requirements, Terms, and Conditions of this Attachment is:

____ % - DBE (Disadvantaged Business Enterprise)

THIS PERCENTAGE RELATES TO DBE SUBCONTRACTING (***MATERIAL SUPPLIERS ARE CREDITED FOR 60% OF THEIR CONTRACT VALUE***) (UNLESS THE PRIME IS A CERTIFIED DBE) AND IS CONSISTENT WITH THE DISADVANTAGED BUSINESS ENTERPRISE STATEMENT LISTED IN THE BID/PROPOSAL FORM.

IT IS THE BIDDER'S/PROPOSER'S INTENT TO COMPLY WITH THE ABOVE GOAL.

THE BIDDER/PROPOSER IS COMMITTED TO MINIMUM OF _____ % UTILIZATION ON THIS CONTRACT, IF AWARDED, FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION AND WILL SUBMIT REQUIRED DOCUMENTATION.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING STATEMENTS ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF

_____ TO MAKE THIS AFFIDAVIT
(Name of Business Entity)

(Date) (Affiant) (Title)

State of _____:

City and County of _____:

On this _____ day of _____, _____, before me, the

undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit, and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained. In witness thereof, I hereunto set my hand and official seal.

My Commission Expires: _____

(Notary Public)

(SEAL)

Enclosure 1B - DBE AFFIDAVIT

THIS PAGE MUST BE COMPLETED BY DISADVANTAGED BUSINESS ENTERPRISE CONTRACTOR
(PROPOSER/BIDDER)

I HEREBY DECLARE AND AFFIRM that I am the _____

and duly authorized representative of (the firm of) _____

whose address is _____

I hereby declare and affirm that I am a Disadvantaged Business Enterprise (DBE) and am certified as of the date that the City receives this bid/proposal and as defined by the City of Colorado Springs Purchasing Department in Attachment A for

_____ and that I will provide information
and/or the
(Contract number and name)

certification to document this fact.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING STATEMENTS ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

(Date) _____ (Affiant)

State of _____:

City and County of _____:

On this _____ day of _____, _____, before me, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit, and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

My Commission Expires: _____

(Notary Public)

(SEAL)

Enclosure 2 – Schedule of DBE Participation

Re: _____

(Specify particular work items or parts thereof to be performed and associated cost(s).)

Firm submitting bid/quote	Certification #	Work items description	Dollar amount towards DBE Goal

NAME OF PRIME CONTRACTOR_____
SIGNATURE_____
TITLE_____
DATE**Companies listed must be certified at the date of the bid submission.**

(Submit this page for each DBE subcontractor.)

ATTACHMENT 6**Certification Forms**

The City of Colorado Springs does not conduct any certifications, however, will distribute the same forms as the Unified Certifications Program (UCP) found at the following website:

<http://www.coloradodot.info/business/equal-opportunity/dbc/certification.html>

to any interested firms who wish to be certified as a DBE.

ATTACHMENT 7

The City of Colorado Springs will follow the up-to-date 49 CFR Part 26 electronic code of federal regulation found at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl.